

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JOHN M. REGAN, JR.,

Petitioner,

DECISION AND ORDER

08-CV-6071L

v.

BRIAN FISCHER,  
as Commissioner of the New York State  
Department of Correctional Services,  
NEW YORK STATE DEPARTMENT OF  
CORRECTIONAL SERVICES,  
WILLIAM M. POWERS,  
as Superintendent of the Albion Correctional Facility,  
NEW YORK STATE ATTORNEY GENERAL,

Respondents.

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By Order entered May 30, 2008 (Dkt. #6), this Court dismissed the petition. Petitioner, a lawyer, neglected or failed to file an appeal. Now, petitioner moves to vacate this Court's order dismissing the petitioner and reinstate it. That motion (Dkt. #8) was filed October 20, 2008.

In spite of the *ad hominem* arguments and other irrelevant material, the motion is essentially one for reconsideration. Although styled as a motion under FED. R. CIV. P. 60(b), it is a request for reconsideration and such a motion is not to be used as a substitute for appeal.

In any event, nothing set forth in the pending motion suggests any reason to alter, amend or vacate the decision to dismiss the petition, which was entered May 30, 2008.

CONCLUSION

The motion (Dkt. #8) filed October 20, 2008, is in all respects denied.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer", is written over a horizontal line.

DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
November 6, 2008.